

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2846 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

UNION OF INDIA

Versus

MAHESHKUMAR KANTILAL SHAH HEIROF KANTILAL MAGANLAL

Appearance:

MR JD AJMERA for Petitioners

None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 18/11/97

ORAL JUDGEMENT

1. The matter was called out for hearing in the first round then in the second round and lastly in the third round but none put appearance of the respondent. Heard the learned counsel for the petitioners and perused the special civil application.
2. Challenge has been made by this special civil application to the order of the Extra Assistant Judge,

Bhavnagar, in Miscellaneous Civil Appeal No.10 of 1986 dated 10th April, 1986 whereunder the appeal of the plaintiff-respondent against the order of the 3rd Joint Civil Judge (S.D.), Bhavnagar in Regular Civil Suit No.1071 of 1984 below Ex.5 has been set aside.

3. The matter pertains to the dispute of the telephone bill raised by the plaintiff-respondent. The suit itself is not maintainable in view of the decision of this court in the case of Govindbhai P. Chovatia vs. Gujarat Telecom Circle reported in 1995 (2) GLH 1041. When the suit itself is not maintainable then the Court below could not have granted any interim injunction in favour of the plaintiff-respondent.

4. In the result, this special civil application is allowed and the orders of the Extra Assistant Judge, Bhavnagar dated 10th April, 1986 passed in Miscellaneous Civil Appeal No.10 of 1986 and of 3rd Joint Civil Judge (S.D.), Bhavnagar below Ex.5 in Regular Civil Suit No.1071 of 1984 are quashed and set aside. The Regular Civil Suit No.1071 of 1984 is also dismissed as it is not maintainable. The acceptance of this special civil application and the dismissal of the civil suit will not come in the way of the plaintiff-respondent to raise a dispute before the arbitrator in accordance with law. Rule is made absolute.

zgs/-